

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**ECO FARMS TRADING OPERATIONS,  
LLC, a Delaware limited liability company,**

**Plaintiff,**

**vs.**

**ELITE FARMS, INC., a New York  
corporation,**

**Defendant.**

**CASE NO.**

**COMPLAINT**

Plaintiff, Eco Farms Trading Operations, LLC commences this lawsuit, seeking damages against Defendant, Elite Farms, Inc. for breach of the parties' contract, and enforcing its rights under the Perishable Agricultural Commodities Act of 1930 ("PACA"), as amended, 7 U.S.C. §§499a-t and state law.

**PARTIES**

1. Plaintiff is Eco Farms Trading Operations, LLC ("Eco Farms"), a Delaware corporation with its principal place of business in Temecula, California.

2. Defendant is Elite Farms, Inc., a New York corporation with its principal place of business located in Brooklyn, New York.

**JURISDICTION**

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331, because Eco Farms' claims arise under the Perishable Agricultural Commodities Act of 1930 ("PACA"), as amended, 7 U.S.C. §499e(b)(2).

4. 28 U.S.C. §1367(a) provides this Court with supplemental jurisdiction over Eco Farms' other claims.

**VENUE**

5. Venue in this District is proper under 28 U.S.C. §1391(b), because a substantial part of the events and omissions underlying this lawsuit, including the issuance of checks from Elite Farms, occurred in this District, and the property that is the subject of this action is located here.

**CLAIMS FOR RELIEF**

**COUNT I - BREACH OF CONTRACT (ORDER #22126/INVOICE #IN21548)**

6. Eco Farms re-alleges ¶¶1 through 5.

7. On October 2, 2018, Eco Farms and Elite Farms entered into a contract for Eco Farms to sell, and Elite Farms to purchase, in interstate commerce, 1,600 cartons of avocados at a price of \$29.88 per carton, for a total purchase price of \$47,808.00.

8. On October 2, 2018, Eco Farms sent a passing to Elite Farms, designating the shipment as OR22126. Passing No. OR22126 s attached as Exhibit “A.”

9. Elite Farms never objected to the terms and conditions stated on the passing.

10. When the avocados arrived one day late, Elite Farms requested, and Eco Farms agreed, to reduce the \$29.88 price per carton by \$1.38, for a total price of \$28.50 per carton, resulting in a credit of \$2,208.

11. On October 9, 2018, Elite Farms ordered, and had a federal inspection taken of the avocados.

12. Elite Farms had only 640 of the 1,600 cartons inspected.

13. The inspection revealed 34% total defects of the 640 cartons.

14. The uninspected cartons are considered to have 0% total defects.

15. On or about October 15, 2018, Elite Farms issued its check, no. 5837, from its offices in Brooklyn, New York paying only \$30,560.00 of the \$45,600.00 agreed-upon price.

16. Elite Farms' check contained the wording "Accord + Satisfaction."

17. Eco Farms deposited the check, with words of protection "Partial pymt."

18. Elite Farms breached the contract by failing to pay Eco Farms the remaining \$15,040.00 balance.

19. No bona fide dispute exists for Elite Farms to pay less than the full invoice price.

20. Despite Eco Farms' repeated demands, Elite Farms has failed to pay the remaining \$15,040.00 balance.

21. Eco Farms fully performed all conditions precedent to the agreed contracts.

22. Eco Farms issued and sent to Elite Farms an invoice, No. IN21548. Invoice No. IN21548 is attached as Exhibit "B." Subsequent to the issuance of the invoice, Eco Farms issues a \$2,208 credit towards the invoice, making the new balance due \$45,600.

23. Eco Farms' invoice included additional terms and conditions for payment of pre-judgment interest accruing at the rate of 18% per annum.

24. Eco Farms' invoice to Elite Farms provided for payment of Eco Farms' attorneys' fees and costs if collection action becomes necessary.

25. Elite Farms never objected to the terms and conditions stated on Eco Farms' invoice.

26. Eco Farms has incurred damages resulting from Elite Farms' breach of contract in an amount no less than \$15,040.00, plus interest from the date the invoice became past due, costs, and attorneys' fees.

For these reasons, Eco Farms seeks entry of a judgment in its favor and against Elite Farms in an amount no less than \$15,040.00, plus interest from the date the invoice became past due, costs, and attorneys' fees.

**COUNT II: FAILURE TO PAY PROMPTLY (ORDER #22126/INVOICE #IN21548)**  
**7 U.S.C. §499b(4)**

27. Eco Farms re-alleges ¶¶1 through 26.
28. Elite Farms purchased and received the avocado shipment described in ¶7.
29. In accordance with PACA, 7 C.F.R. §46.2(aa), Elite Farms must tender full payment promptly to its unpaid produce suppliers and sellers.
30. Elite Farms failed to pay the full amount for the avocados supplied by Eco Farms within the payment term for Invoice No. IN21548.
31. Eco Farms has incurred damages resulting from Elite Farms' failure to pay promptly in an amount no less than \$15,040.00, plus interest from the date the invoice became past due, costs, and attorneys' fees.

For these reasons, Eco Farms seeks an Order directing Elite Farms to immediately pay Eco Farms the sum of \$15,040.00, plus interest from the date the invoice became past due, costs, and attorneys' fees.

**COUNT III - BREACH OF CONTRACT (ORDER #22148/INVOICE #IN21557)**

32. Eco Farms re-alleges ¶¶1 through 5.
33. On October 3, 2018, Eco Farms and Elite Farms entered into a contract for Eco Farms to sell, and Elite Farms to purchase, in interstate commerce, 1,632 cartons of avocados at a total price of \$40,800.00.

34. On October 3, 2018, Eco Farms sent an order confirmation to Elite Farms, designating the shipment as OR22148. Confirmation No. OR22146 is attached as Exhibit “C.”

35. Elite Farms ordered, and had a federal inspection taken of the avocados on October 9, 2019.

36. Elite Farms had all 1,632 cartons inspected.

37. The inspection revealed 0% total defects.

38. On or about October 18, 2018, Elite Farms issued its check, no. 5842, from its office in Brooklyn, New York paying only \$6,887.00 of the \$40,800.00 agreed-upon price.

39. Elite Farms’ check contained the wording “Accord + Satisfaction.”

40. Eco Farms deposited the check, with words of protection “Partial pymt”.

41. Elite Farms breached the contract by failing to pay Eco Farms the remaining \$33,913.00 balance.

42. No bona fide dispute exists for Elite Farms to pay less than the full invoice price.

43. Despite Eco Farms’ repeated demands, Elite Farms has failed to pay the remaining \$33,913.00 balance.

44. Eco Farms fully performed all conditions precedent to the agreed contracts.

45. Eco Farms issued and sent to Elite Farms an invoice, No. IN21557. Invoice No. IN21557 is attached as Exhibit “D.”

46. Eco Farms’ invoice to Elite Farms reflected the agreed-upon amount owed by Elite Farms.

47. Eco Farms’ invoice to Elite Farms included additional terms and conditions for payment of pre-judgment interest accruing at the rate of 18% per annum.

48. Eco Farms' invoice to Elite Farms provided for payment of Eco Farms' attorneys' fees and costs if collection action becomes necessary.

49. Elite Farms never objected to the terms and conditions stated on Eco Farms' invoice.

50. Eco Farms has incurred damages resulting from Elite Farms' breach of contract in an amount no less than \$33,913.00, plus interest from the date the invoice became past due, costs, and attorneys' fees.

For these reasons, Eco Farms seeks entry of a judgment in its favor and against Elite Farms in an amount no less than \$33,913.00, plus interest from the date the invoice became past due, costs, and attorneys' fees.

**COUNT IV: FAILURE TO PAY PROMPTLY (ORDER #22148/INVOICE #IN21557)**  
**7 U.S.C. §499b(4)**

51. Eco Farms re-alleges ¶¶1 through 5 and ¶¶32-50.

52. Elite Farms purchased and received the avocado shipment described in ¶31.

53. In accordance with PACA, 7 C.F.R. §46.2(aa), Elite Farms must tender full payment promptly to its unpaid produce suppliers and sellers.

54. Elite Farms failed to fully pay for the avocados supplied by Eco Farms within the payment term for Invoice No. 21557.

55. Eco Farms has incurred damages resulting from Elite Farms' failure to pay promptly in an amount no less than \$33,913.00, plus interest from the date the invoice became past due, costs, and attorneys' fees.

For these reasons, Eco Farms seeks an Order directing Elite Farms to immediately pay Eco Farms the sum of \$33,913.000, plus interest from the date the invoice became past due, costs, and attorneys' fees.

For these reasons, Eco Farms seeks a Judgment as follows:

A. On Counts I and II, entry of Final Judgment in its favor and against Elite Farms, in an amount no less than \$15,040.00, plus interest from the date each invoice became past due, costs, and attorneys' fees;

B. On Counts III and IV, entry of Final Judgment in its favor and against Elite Farms, in an amount no less than \$33,913.00, plus interest from the date each invoice became past due, costs, and attorneys' fees; and

C. Providing all other relief this Court deems appropriate upon consideration of this matter.

Respectfully submitted this Wednesday, August 28, 2019.

**MEUERS LAW FIRM, P.L.**

By: /s/ Steven E. Nurenberg

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